

1 Michael Kind, Esq.  
 2 Nevada Bar No. 13903  
 3 **KAZEROUNI LAW GROUP, APC**  
 4 6069 S. Fort Apache Rd., Ste. 100  
 5 Las Vegas, NV 89148  
 6 Phone: (800) 400-6808 x7  
 mkind@kazlg.com  
*Attorneys for Plaintiff Jamie Sprague*

7  
**UNITED STATES DISTRICT COURT**  
 8 **DISTRICT OF NEVADA**

<p>9    10 Jamie Sprague,    11 Plaintiff,    12 v.    13 TD Auto Finance, LLC f/k/a    14 Chrysler Financial,    15 Defendant.</p>	<p>16    17 Case No:    18  <b>Complaint for Damages and</b>  <b>Injunctive Relief Pursuant to the</b>  <b>Telephone Consumer Protection</b>  <b>Act, 47 U.S.C. § 227, et seq.</b>  <b>Jury Trial Demanded</b></p>
---	--

19 **INTRODUCTION**

20 1. Jamie Sprague (“Plaintiff”) brings this Complaint for damages, injunctive relief,  
 21 and any other available legal or equitable remedies, resulting from the illegal  
 22 actions of TD Auto Finance, LLC f/k/a Chrysler Financial (“Defendant”), in  
 23 negligently and/or intentionally contacting Plaintiff on Plaintiff’s cellular  
 24 telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. §  
 25 227, et seq. (the “TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges  
 26 as follows upon personal knowledge as to herself and her own acts and

1 experiences, and, as to all other matters, upon information and belief, including  
 2 investigation conducted by his attorneys.

3 2. The TCPA was designed to prevent calls like the ones described within this  
 4 complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous  
 5 consumer complaints about abuses of telephone technology – for example,  
 6 computerized calls dispatched to private homes – prompted Congress to pass  
 7 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

8 3. In enacting the TCPA, Congress intended to give consumers a choice as to how  
 9 creditors and telemarketers may call them, and made specific findings that  
 10 “[t]echnologies that might allow consumers to avoid receiving such calls are not  
 11 universally available, are costly, are unlikely to be enforced, or place an  
 12 inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward  
 13 this end, Congress found that

14 [b]anning such automated or prerecorded telephone calls to the  
 15 home, except when the receiving party consents to receiving the  
 16 call or when such calls are necessary in an emergency situation  
 17 affecting the health and safety of the consumer, is the only  
 18 effective means of protecting telephone consumers from this  
 19 nuisance and privacy invasion.

20 *Id.* at § 12; *see also Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL  
 21 3292838, at\* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings on  
 22 TCPA’s purpose).

23 4. Congress also specifically found that “the evidence presented to the Congress  
 24 indicates that automated or prerecorded calls are a nuisance and an invasion of  
 25 privacy, regardless of the type of call. . . .” *Id.* at §§ 12-13. *See also, Mims*, 132  
 26 S. Ct. at 744.

27 **JURISDICTION AND VENUE**

28 5. This Court has federal question jurisdiction pursuant to 28 U.S.C. §1331  
 29 because this case arises out of a violation of the TCPA, a federal law.

1 6. Venue is proper in the United States District Court for the District of Nevada  
2 pursuant to 28 U.S.C. §1331 because (i) Plaintiff resides within this judicial  
3 district; (ii) the harm complained of herein occurred within this judicial district;  
4 and (iii) many of the acts and transactions giving rise to this action occurred in  
5 this district because Defendant is listed with the Nevada Secretary of State as a  
6 foreign limited-liability company doing business in Nevada and  
7 (a) conducts business in this district and has intentionally availed itself to  
8 the laws and markets within this district;  
9 (b) does substantial business within this district;  
10 (c) is subject to personal jurisdiction in this district because it has availed  
11 itself of the laws of Nevada; and  
12 (d) caused harm to Plaintiff within this district.

13 **PARTIES**

14 7. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the  
15 State of Nevada. Plaintiff is, and at all times mentioned herein was, a  
16 “person” as defined by 47 U.S.C. §153(39).  
17 8. Upon information and belief, Defendant is, and at all times mentioned herein  
18 was, a limited-liability company doing business in Nevada, registered with  
19 the Nevada Secretary of State, and is a “person as defined by 47 U.S.C.  
20 §153(39).  
21 9. Upon information and belief, Defendant’s website is <http://www.tdautofinance.com>.  
22 10. Upon information and belief, Defendant is a company and owner (or frequent  
23 user) of one or more of the telephone numbers used by Defendant to make  
24 telephone calls to Plaintiff in violation of the TCPA.

26 **FACTUAL ALLEGATIONS**

27 11. Within the four years prior to filing the instant complaint, Plaintiff received  
28 numerous calls from Defendant.

12. At no time did Plaintiff give prior written, express consent for Defendant to
13. contact Plaintiff on her cellular telephone.
14. Defendant called Plaintiff's cellular telephone number on various instances ("the calls").
15. Upon information and belief, Defendant placed the calls using an "automatic telephone dialing system," ("ATDS") as defined by 47 U.S.C. §227(a)(1), and as prohibited by 47 U.S.C. §227(b)(1)(A).
16. The calls were not for emergency purposes as defined by 47 U.S.C. §227(b)(1)(A)(i).
17. Upon information and belief, the ATDS used by Defendant has the capacity to store or produce telephone numbers to be called using a random or sequential number generator.
18. Upon information and belief, the ATDS used by Defendant has the capacity to, and does, dial telephone numbers stored as a list or in a database without human intervention.
19. The calls were placed to a telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §227(b)(1).
20. The calls were unwanted by Plaintiff.
21. Plaintiff told Defendant multiple times to stop calling.
22. Specifically, but not limited to, Plaintiff requested that Defendant cease all calls to her cellular telephone in or about 2015.
23. Defendant did not have prior, express written consent to place the calls to Plaintiff.
24. Through Defendant's aforementioned conduct, Plaintiff suffered an invasion of a legally protected interest in privacy, which is specifically addressed and protected by the TCPA.

- 1 24. Plaintiff received numerous unwanted calls within the four years preceding
- 2 the filing of the complaint while he was at work and home.
- 3 25. Plaintiff was personally affected by Defendant's aforementioned conduct
- 4 because Plaintiff was frustrated and distressed that Defendant interrupted
- 5 Plaintiff with an unwanted calls using an ATDS and prerecorded voices.
- 6 26. The calls forced Plaintiff to live without the utility of her cellular phone by
- 7 occupying her cellular telephone with unwanted calls, causing a nuisance and
- 8 lost time.
- 9 27. The calls to Plaintiff's cellular telephone number were unsolicited by Plaintiff
- 10 and without Plaintiff's permission or consent.
- 11 28. Plaintiff is informed, believes, and there upon alleges that the calls were made
- 12 by Defendant and/or Defendant's agent(s), with Defendant's permission,
- 13 knowledge, control and for Defendant's benefit.
- 14 29. Through the aforementioned conduct, Defendant has violated 47 U.S.C.
- 15 §227(b)(1)(A)(iii).
- 16 30. Further, Defendant's violations caused Plaintiff to suffer a real and concrete
- 17 harm because when Defendant called Plaintiff, Plaintiff's time was wasted on
- 18 phone calls with Defendant when Defendant had no right to contact Plaintiff.
- 19 Defendant also consumed and wasted Plaintiff's cellphone battery life.
- 20 Plaintiff also suffered from frustration and annoyance which the TCPA was
- 21 enacted to prevent. *See, e.g., Mey v. Got Warranty, Inc.*, No. 5:15-CV-101,
- 22 2016 U.S. Dist. LEXIS 84972, at \*8 (N.D.W. Va. June 30, 2016) ("[S]uch
- 23 calls also cause intangible injuries, regardless of whether the consumer has a
- 24 prepaid cell phone or a plan with a limited number of minutes. The main
- 25 types of intangible harm that unlawful calls cause are (1) invasion of privacy,
- 26 (2) intrusion upon and occupation of the capacity of the consumer's cell
- 27 phone, and (3) wasting the consumer's time or causing the risk of personal
- 28 injury due to interruption and distraction.").

**FIRST CAUSE OF ACTION  
NEGLIGENT VIOLATIONS OF THE TCPA  
47 U.S.C. §227 *et seq.***

31. Plaintiff incorporates by reference all above paragraphs as though fully stated herein.
32. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. §227, *et seq.*
33. As a result of Defendant's negligent violations of 47 U.S.C. §227 *et seq.*, Plaintiff is entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B).
34. Plaintiff is also entitled to, and seeks, injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION  
KNOWING AND/OR WILLFUL VIOLATIONS OF THE TCPA  
47 U.S.C. §227 *et seq.***

35. Plaintiff incorporates by reference all above paragraphs as though fully stated herein.
36. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. §227, *et seq.*
37. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §227 *et seq.*, Plaintiff is entitled to an award of \$1,500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(C).
38. Plaintiff is also entitled to, and seeks, injunctive relief prohibiting such conduct in the future.

## PRAYER FOR RELIEF

Plaintiff respectfully requests the Court to grant Plaintiff the following relief against Defendant:

- Provide injunctive relief prohibiting Defendant's unlawful conduct in the future, pursuant to 47 U.S.C. §227(b)(3)(A);
- Award statutory damages of \$500.00 for each of Defendant's negligent violations of 47 U.S.C. §227(b)(1), pursuant to 47 U.S.C. §227(b)(3)(B);
- Award statutory damages of \$1,500.00 for each of Defendant's knowing and/or willful violations of 47 U.S.C. §227(b)(1), pursuant to 47 U.S.C. §227(b)(3)(C); and
- Any other relief the Court deems just and proper.

## TRIAL BY JURY

39. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury

DATED this 21st day of September 2018.

Respectfully submitted,

## KAZEROUNI LAW GROUP, APC

By: /s/ Michael Kind  
Michael Kind, Esq.  
6069 S. Fort Apache Rd., Ste. 100  
Las Vegas, NV 89148  
*Attorneys for Plaintiff*